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6 UNITED STATES DISTRICT COURT

7 EASTERN DISTRICT OF WASHINGTON

MOTION TO QUASH SERVICE
AND DISMISS BENTON COUNTY
UNDER CIV.R. 12 (b)(5);
MOTION TO DISMISS BENTON
CO. PLANNING/BUILDING
DEPT. AND OFFICIAL
CAPACITY SUITS AGAINST
DEFENDANTS MILLER,
MARDEN, VINING, STILWILL,
BROWN AND BRENNER UNDER
CIV.R. 12(b)(6); AND
MOTION TO DISMISS
PLAINTIFFS' SECOND, THIRD
AND ELEVENTH CAUSES OF
ACTION AGAINST ALL
REMAINING COUNTY
DEFENDANTS UNDER CIV.R.
12(b)(6).

COME NOW defendants Benton County, the Benton County
Planning/Building Department and Andy Miller, Terry Marden, Steve
Brown, Elisa Vining, Craig Stilwill and Gary Brenner, each in their
official capacity, to move the Court for an order dismissing this
action against them for the following reasons:

1. Defendant Benton County was not properly served with the
summons and complaint in the manner prescribed by Washington law
and Civ.R. 4(j).

2. Defendants Benton County Planning/Building Dept. and Andy
Miller, Terry Marden, Gary Brenner, Steve Brown, Craig Stilwill and

1 Elisa Vining are not proper parties in their official capacities
2 and should be dismissed under Civ.R. 12(b)(6).

3 COME NOW defendants Gary Brenner, Steve Brown, Craig Stilwill,
4 and Elisa Vining, each in their individual capacity, and any of the
5 above defendants to the extent not already dismissed, to further
6 move the Court for an order dismissing the plaintiffs' Second,
7 Third and Eleventh Claims under Civ.R. 12(b)(6) for failure to
8 state a claim.

9 The legal points and authorities relied on in support of this
10 motion are set forth in the accompanying Memorandum in Support.

11 A proposed order granting the relief requested accompanies
12 this motion.

13 Dated this 18th day of January, 2006.

14 ANDY MILLER
15 Prosecuting Attorney

16 By s/Ryan K. Brown
17 RYAN K. BROWN, Chief Deputy (Civil)
Prosecuting Attorney
WSBA # 19837
18 Attorneys for Benton Co. Defendants
Benton County Prosecutor's Office
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336
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20 Fax: (509) 222-3705
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22 **DECLARATION OF SERVICE**

23 I certify that I served, in the manner indicated below, a true
24 and correct copy of the foregoing document as follows:

25 Gerry Greenfield, Jr.
P.O. Box 6333
26 Kennewick, WA 99336

27 U.S. Regular Mail, Postage Prepaid
 Legal Messenger
 Facsimile
 Overnight Express
 Electronic Notice Via ECF

1 Gerry Greenfield III
2 3324 NE 6th Place
Renton, WA 98056

X U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
9 Electronic Notice Via ECF

4 Elizabeth Logsdon
5 1114 W. 10th Ave. P-205
Kennewick, WA 99336

X U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
9 Electronic Notice Via ECF

7 Nicole Greenfield
8 1114 W. 10th Ave. L-205
Kennewick, WA 99336

X U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
9 Electronic Notice Via ECF

10 Christopher W. Tompkins
BETTS, PATTERSON & MINES, P.S.
One Convention Place, Ste. 1400
701 Pike Street
Seattle, WA 98101-3927

G U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
X Electronic Notice Via ECF

13 Dan F. Hultgren
KUFFEL, HULTGRENN, KLASHKE & SHEA,
LLP
1915 Sun Willows
Pasco, WA 99301

G U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
X Electronic Notice Via ECF

16 Kristina L.J. McKennon
FLYNN, MERRIMAN & PALMER, P.S.
830 N. Columbia Center Blvd., Ste. A
Kennewick, WA 99336

G U.S. Regular Mail, Postage Prepaid
G Legal Messenger
G Facsimile
G Overnight Express
X Electronic Notice Via ECF

19 DATED this 18th day of January, 2006, at Kennewick, Washington.

20 S/Ryan K. Brown
RYAN K. BROWN